

Response to Office Action 35 U.S.C. 102 Rejection;

Claims 50-106, and 102 have been rejected under 35 USC 102 (b) as being anticipated by Gaffney (E.P. 1092371). It is the Examiner's position that the document discloses a multi-position reclining bed having the elements of the applicant's claimed bed. Applicant respectfully disagrees.

The chair of Gaffney is clearly a reclining chair and not a bed and has the following structural and functional differences with the applicant's bed:

1. Gaffney's chair has permanent armrests which requires forward entry and exit (even without armrests) - a bed is entered and exited from the side as is applicant's bed. Gaffney chair will not allow side entry and exit.
2. Gaffney's chair will not lie with his sections flat in a horizontal plane- applicant's bed forms a flat horizontal plane. All beds sold as beds are able to form a flat horizontal sleeping surface even if there was a bed the same width as Gaffney's chair. This would be the major defining feature between a bed and a chair.

3. Gaffney's chair is a standard chair width as determined by the armrests and will not allow a person to roll from side to back to other side- applicant's armrests swing into position for sitting and are moved to the side for sleeping to provide a standard width bed to allow rolling of person from side to back to other side.
4. Gaffney's non-level surface will not allow comfortable side sleeping even if the person were to lift and lower themselves onto their side.
5. Gaffney's chair is the length of a standard reclining chair of 64 inches to allow the leg section to incline to a vertical position, resulting in the average height person's feet to hang over the foot rest when reclined- the applicant's bed is a standard bed length of 80 inches to allow the feet to be supported when horizontal resulting in the leg section not being able to be inclined to a vertical position.
6. The length of Gaffney's chair makes it simple to fold the chair sections into a reclined configuration- applicant's full length (twin extra long) requires a track with a cantilever supporting leg and a buttocks section that must first be tilted upwards to provide clearance for the coplanar thigh/calve section to be lowered for sitting.
7. Most reclining bed are extra long to compensate for reduction in mattress length as it shortened by the folds in the mattress compressing, not stretching, the mattress materials.

8. Gaffney's chair has attached cushions- applicant's bed has a standard detached mattress.
9. Gaffney's sitting cushions has gaps between them when in it's most reclined horizontal position- applicants mattress forms a one piece uniform sleep surface.
10. Gaffney's cushion are not thick enough to allow sufficient contouring around shoulders and hips when lying on their side, and is designed for back lying, which requires less thickness- applicant has a conventional mattress designed for side sleeping.
11. Gaffney's chair cannot be fitted with sheets or blankets due to the armrests, and sheets and or blanket placed on this chair would drape over the armrests or hang down along sides of chair- applicant's bed uses standard sheets and blankets that are tucked in between base and mattress to secure them.
12. Gaffney's chair uses structural arms with pivots to achieve movement but not tracks with wheels -applicant's and all other all adjustable beds have tracks and wheels to allow their sections to lay flat.
13. Gaffney's chair cannot elevate feet above the person's head, applicant's and all other adjustable beds raise the person's feet above the person's head while they lie with their back horizontal.
14. Gaffney's chair has one motor that moves the sections into standard reclining chair configuration as it reclines which is determined by the

linkage- applicant's bed has 4 motors that adjust each section to the desired position independent of the other sections. Most adjustable beds have 2 motors to adjust the back and leg sections.

15. Gaffney has a chair with armrests, as all reclining chairs have, that reclines for resting or short naps on a person's back- the applicant has a bed for full night sleeping that is turned into a chair by dropping the legs, tilting the buttocks, raising the back and swinging in armrests.

16. When Gaffney's chair is fully reclined and a person sits on the foot end, the head end of the chair will lift and topple footward- applicant's bed has a much longer leg section than Gaffney and a claimed cantilever leg to prevent toppling

17. All chairs, including Gaffney's, are made to have the person's feet rest on the floor, except bar stools (which add a foot rest). The applicant's bed has a novel added foot rest for the reason of turning it into a chair. Without this feature, the person's feet would not be supported, to ergonomically simulate the support of the legs on a floor allowing a person to sit long term since the leg weight must be supported and it also to allows the person to shift their body weight for comfort.

The above reasons clearly distinguish that Gaffney's invention is a recliner chair /lift chair, and the applicant's invention is an adjustable full sit up bed.

It is also clear that Gaffney's chair does not provide the utility functions of a

bed and is inoperable as a sleeping bed. (ie people can sleep in a hammock, chair, stool, bench or floor, but it does not make these a bed.

The limitations of claim 102 “A multi-position reclining bed”, and “horizontally situated elongated track” and “a thigh/calve section” clearly distinguish over Gaffney’s chair. The limitation “multi-position” implies various positions of the sections relative to each other. Gaffney’s chair has 2 positions; sitting up chair or reclined chair. His lack of a “horizontally situated track” as claimed by the applicant, not only distinguishes over Gaffney but provides the structure to allow multi-positioning. It allows the bed to lay flat and horizontal hence making it into a sleeping bed surface. Gaffney’s structure, comprising linkage arms, limits the relative movement of the chair sections in a fixed configuration relative to each other as it goes from sitting to reclined.

The applicant’s limitation “thigh/calve section” distinguish over Gaffney’s chair, which has a single section for the legs and one for the buttocks, whereas applicant has 2 sections for the legs and one for the buttocks.

Applicant has a two part thigh /calve section which raises above (articulated) and coplanar below the horizontal plane of the buttocks section in a downward direction pivotally about an adjoining edge with the buttocks section.

The applicant’s new limitation in claim 107 “ d. a mattress that rests on said plurality of supporting elements” clearly distinguishes applicant’s bed over Gaffney’s chair.

It would not be obvious to anyone skilled in the art to use Gaffney's chair as a bed since it's main purpose is for sitting and lifting a person to a standing height. Gaffney used the concept of wallhugger, which is well known with adjustable beds and adapted this to his lift chair. Had Gaffney deemed the chair for sleeping purposes and made it larger he would have to make the many above structural changes resulting, when in the lifted position, in a unstable lift chair and would not allow the person to exit the foot of the bed by sliding down the leg section which is about 12" longer than the person's legs. This would make Gaffney's bed inoperable as a lift chair for which it was designed. If he removed the arm rests to allow side exit it would make his chair inoperable for long term sitting. If he made the chair wider for rolling a person's body from side to back to other side, it also make the chair inoperable for long term sitting which requires arm rests to partially support the upper body weight. (this is readily felt if one sits in the middle of the back seat of a car without armrests for even short trips)

Hence anyone skilled in the art would have armrests on a recliner chair, and a flat horizontal mattress of at least 36 inches wide and adult body length in order to make a bed for sleeping. The dimensions of Gaffney's chair and applicant's bed are clearly depicted by the general shape to conform to the average adult height, without setting forth dimensional limitations.

A person skilled in the art would not construe Gaffney's chair much larger than depicted, say for an 8 foot tall person, nor applicant's bed as a child size bed, but rather as conventional in size for a chair and for a bed.

SUMMARY

Applicant has amended the claims to overcome the Objections of the examiner, and presented arguments to delineate the present invention from the device shown in the prior art. It is respectfully submitted that the claims are in condition for allowance, such action is respectfully requested. If, for any reason

this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. 2173.02 and 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,



Ferdinand Schermel applicant pro se

7741 Churchville Rd

Brampton, Ontario Canada

L6Y 0H3

Phone 905-451-1513

Fax 905-451-8125

Email fschermel@yahoo.ca